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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:	:	
	:	Chapter 11
96 WYTHE ACQUISITION LLC,	:	
	:	Case No. 21-22108 (RDD)
Debtor.	:	
	:	
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**LENDER'S RESPONSE TO DEBTOR'S REPLY  
SUPPORTING FIRST INTERIM FEE APPLICATION**

TO THE HONORABLE ROBERT D. DRAIN  
UNITED STATES BANKRUPTCY JUDGE:

Benefit Street Partners Realty Operating Partnership, L.P.<sup>1</sup> (“**Benefit Street**” or “**Lender**”) submits this response to the *Debtor’s Reply Supporting First Interim Fee Application* [ECF No. 433] (the “**Reply**”).

### **RESPONSE**

1. On Friday, March 4, 2022, the Debtor filed its Reply to the Lender’s reservation of rights and, in its Reply, purportedly sought to use cash collateral on a non-consensual basis to pay the Debtor’s professional fees. Thereafter, counsel for the Lender and Debtor conferred on this disputed use, and the Debtor has agreed not to seek to use cash collateral to pay professional fees at this time.<sup>2</sup> Any such request and corresponding dispute will be addressed in the future. Benefit Street files this response to reserve its rights with respect to any future interim or final fee applications and any future requests to use cash collateral.

2. Benefit Street submits this short statement to note that it disagrees with the characterizations and arguments made in the Reply. Among other things, valuation is heavily disputed in this case and, therefore, statements regarding the value of the Lender’s collateral and ultimate allowed amount of the Lender’s claim as being fully or undersecured are disputed. *See* Lender’s Objection to Confirmation of Debtor’s Second Amended Chapter 11 Plan of Reorganization ¶¶ 57-58, 64 [ECF No. 307]; Lender’s Sur-Reply in Support of its Objection to Confirmation of Debtor’s Second Amended Chapter 11 Plan of Reorganization ¶¶ 15, 20, 22, 34-

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<sup>1</sup> Benefit Street is a wholly owned subsidiary of Franklin Resources, Inc. that, together with various subsidiaries, operates as Franklin Templeton. Franklin BSP Realty Trust is a publicly traded entity on the New York Stock Exchange under the ticker symbol FBRT.

<sup>2</sup> The Lender has consented to the submission of a further tenth interim order allowing the use of cash collateral for the Hotel’s operations and, with the exception of payment of \$13,500 for the Debtor’s appraiser, no other Debtor professional is included in the cash collateral budget or order.

35 [ECF No. 425]. Benefit Street reserves all rights with respect to the arguments raised in the  
Reply to be addressed at the appropriate time

Dated: March 7, 2022  
New York, New York

**KRAMER LEVIN NAFTALIS & FRANKEL LLP**

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